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13 L.A. T-SHIRT & PRINT, INC.

14 UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16

17 L.A. T-SHIRT & PRINT, INC. dba RIOT
18 SOCIETY, a California corporation

19 Plaintiff,

20 v.

21 RUE 21, INC., a Delaware corporation; 6
22 TWO APPAREL GROUP LTD., a New
23 York corporation; and DOES 1 through
24 10, inclusive,

25 Defendants.
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Case No.:

COMPLAINT FOR:

1. **Copyright infringement;**
2. **Vicarious and/or Contributory
Copyright Infringement**

JURY TRIAL DEMANDED

1 Plaintiff, L.A. T-SHIRT & PRINT, INC. dba RIOT SOCIETY (“Plaintiff”),
2 by and through its undersigned counsel, complaining of the defendants RUE 21,
3 INC. (“Rue 21”), a Delaware corporation; 6 TWO APPAREL GROUP LTD. (“6
4 Two Apparel”), a New York corporation; and DOES 1 through 10, inclusive
5 (collectively, “Defendants”), respectfully alleges as follows:

6 **NATURE OF THE ACTION**

7 1. Plaintiff creates and obtains rights to unique two-dimensional non-
8 functional artworks which are transacted primarily in and through the apparel
9 industry. Plaintiff owns these designs in exclusivity and exploits these designs for
10 profit by selling products bearing the designs or entering into licensing agreements
11 for sale or display by third parties. Defendants have knowingly and intentionally
12 used one such design in the production of unauthorized goods which infringe
13 Plaintiff’s copyrights.

14 **JURISDICTION AND VENUE**

15 2. The Court has original subject matter jurisdiction over Plaintiff’s
16 federal claims arising under the Copyright Act of 1976, Title 17 U.S.C., § 101 et
17 seq. under 28 U.S.C. § 1331, 1338 (a) and (b).

18 3. This Court has personal jurisdiction over the Defendants because the
19 events or omissions giving rise to the claim occurred, the tortious acts occurred,
20 and a substantial part of the injury took place and continues to take place, in this
21 judicial district and/or each of the defendants can be found in this judicial district.

22 4. Venue is proper in the United States District Court for the Central
23 District of California pursuant to 28 U.S.C §§ 1391(b), 1391(c), and 1400(a) on
24 information and belief that: (a) this is a judicial district in which a substantial part
25 of the events giving rise to the claims occurred the tortious acts occurred, and a
26 substantial part of the injury took place and continues to take place; and (b) this is
27 a judicial district in which Defendants may be found.
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6. Upon information and belief, defendant RUE 21, INC. (“Rue 21”) is, and at all times relevant was, a Delaware corporation and is doing business within the jurisdiction of this Court.

8. Defendants DOES 1 through 10 are individuals and/or entities whose true names and capacities are presently unknown to Plaintiff. Plaintiff is informed and believes, and thereon alleges, that, at all times herein mentioned, each of the fictitiously named defendants was the agent, servant, and/or employee of his or her co-defendants and, in doing the things herein mentioned, was acting within the scope of his or her authority as such agent, servant, and/or employee, and with the permission and consent of his or her co-defendants, and that each of said fictitiously named defendants is, in some manner, liable or responsible to Plaintiff based upon the facts hereinafter alleged and thereby proximately caused injuries and damages to Plaintiff as more fully alleged herein. Accordingly, Plaintiff sues said defendants by said fictitious names. At such time as said defendants' true names and capacities become known to Plaintiff, Plaintiff will seek leave to amend this Complaint to insert said true names and capacities of such individuals and/or entities.

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9. Plaintiff owns, and had owned prior to the infringing acts complained of herein a copyright in the two-dimensional textile design it has internally designated as “Tribal Bear,” which design is registered with the United States

1 Copyright Registration No. VA 1-953-175. Incorporated within the Tribal Bear is
2 another one of Plaintiff's copyrighted fabric patterns which it had owned prior to
3 the infringing acts complained of herein which it has internally designated as "Riot
4 Society Signature Navajo Pattern," bearing Registration No. VA 1-979-414.
5 Collectively, Tribal Bear and Riot Society Signature Navajo Pattern shall be
6 referred to herein as the "Designs."

7 **DEFENDANTS' INFRINGING CONDUCT**

8 10. Plaintiff is in the garment industry and regularly sells, licenses, or
9 otherwise exploits its artwork to art galleries and garment and accessories
10 manufacturers.

11 11. In or around April 2015, Plaintiff discovered that Defendants were
12 selling garments that bear designs that are identical or substantially similar to
13 Plaintiff's Designs ("Infringing Garments").

14 12. Upon information and belief, Defendants have misappropriated the
15 Designs, and are selling Infringing Garments online and to retail stores throughout
16 the United States, including but not limited to within this judicial district.

17 13. Upon information and belief, Defendants are, without Plaintiff's
18 authorization, unlawfully reproducing, importing, distributing and/or selling
19 Infringing Garments in this judicial district that feature a design that is identical, or
20 substantially similar to, the Designs.

21 14. Upon information and belief, Defendants' infringing use of the
22 Designs is not limited to the Infringing Garments described above, and other
23 garments Defendants created, manufactured, caused to be manufactured, imported,
24 distributed, and/or sold may infringe Plaintiff's copyright in the Designs.

25 15. On or about April 27, 2015, Plaintiff, through its counsel, addressed a
26 letter to Defendant Rue 21 informing it of the Infringing Garments. Plaintiff
27 demanded, among other things, that Rue 21 immediately cease and desist from
28 using, copying, reproducing, distributing, displaying, ordering, purchasing,

1 manufacturing, offering for sale or advertising the Designs in any way. Plaintiff
2 also demanded that Rue 21 provide Plaintiff's counsel with a written accounting of
3 each and every use of the Designs by Rue 21, or any person or entity working with
4 or for Rue 21 and to provide Plaintiff's counsel with the names, addresses, and
5 contact information for the manufacturers, stores, websites, and companies used by
6 Rue 21 in relation with the Designs. Plaintiff further demanded that Rue 21
7 provide Plaintiff's counsel with copies of all sales receipts, invoices, customer
8 records, accounting records, and inventories of and relating to the Designs.

9 16. On or about April 29, 2015, Defendant 6 Two Apparel responded to
10 Plaintiff, identifying itself as the source from which Defendant Rue 21 acquired the
11 Infringing Garments.

12 17. On or about May 6, 2015, Plaintiff replied to Defendant 6 Two
13 Apparel via letter. Plaintiff demanded, among other things, that 6 Two Apparel
14 immediately cease and desist from using, copying, reproducing, distributing,
15 displaying, ordering, purchasing, manufacturing, offering for sale or advertising
16 the Designs in any way. Plaintiff also demanded that 6 Two Apparel provide
17 Plaintiff's counsel with a written accounting of each and every use of the Designs
18 by 6 Two Apparel, or any person or entity working with or for 6 Two Apparel and
19 to provide Plaintiff's counsel with the names, addresses, and contact information
20 for the manufacturers, stores, websites, and companies used by 6 Two Apparel in
21 relation with the Designs. Plaintiff further demanded that 6 Two Apparel provide
22 Plaintiff's counsel with copies of all sales receipts, invoices, customer records,
23 accounting records, and inventories of and relating to the Designs.

24 18. Despite several follow up letters sent by Plaintiff, it has received no
25 further response from Defendants.

26 19. To date, Plaintiff's counsel has not received any of the information or
27 documents requested from any Defendant.

28 20. Upon information and belief, Defendants continue to misappropriate

1 the Designs and to unlawfully reproduce, import, distribute, and/or sell Infringing
2 Garments, in this judicial district, featuring a design, which is identical, or
3 substantially similar to the Designs.

4 **FIRST CLAIM FOR RELIEF**

5 **(For Copyright Infringement - Against All Defendants)**

6 21. Plaintiff repeats, reiterates and realleges each and every allegation
7 contained in paragraphs designated 1 through 20, inclusive, of this Complaint, as if
8 fully set forth herein at length.

9 22. Plaintiff is informed and believes and thereon alleges that Defendants,
10 and each of them, infringed Plaintiff's copyright by creating, making and/or
11 developing directly infringing and/or derivative works from the Designs and by
12 producing, distributing and/or selling Infringing Garments.

13 23. Due to Defendants' acts of infringement, Plaintiff has suffered
14 substantial damages to its business in an amount to be established at trial.

15 24. Due to Defendants' acts of infringement, Plaintiff has suffered general
16 and special damages in an amount to be established at trial.

17 25. Due to Defendants' acts of copyright infringement as alleged herein,
18 Defendants, and each of them, have obtained direct and indirect profits they would
19 not otherwise have realized but for their infringement of the Designs. As such,
20 Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly
21 attributable to Defendants' infringement of the Designs in an amount to be
22 established at trial.

23 26. Plaintiff is informed and believes and thereon alleges that Defendants,
24 and each of them, have imported, manufactured, cause to be manufactured and/or
25 sold Infringing Garments.

26 27. Upon information and belief, Defendants also began such activities
27 although they were fully aware of Plaintiff's superior rights to the Designs.
28 Therefore, Defendants' acts of copyright infringement as alleged above were, and

1 continue to be, willful, intentional and malicious, subjecting Defendants, and each
2 of them, to liability for statutory damages under Section 504(c)(2) of the Copyright
3 Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
4 infringement. Further, Defendants', and each of their willful and intentional
5 misappropriation and/or infringement of Plaintiff's copyrighted Designs renders
6 Defendants, and each of them, liable for statutory damages as described herein.
7 Within the time permitted by law, Plaintiff will make its election between actual
8 damages and statutory damages. Plaintiff is also entitled to preliminary and
9 permanent injunctive relief.

10 **SECOND CLAIM FOR RELIEF**

11 **(For Vicarious and/or Contributory Copyright Infringement**

12 **- Against All Defendants)**

13 28. Plaintiff repeats, realleges and incorporates herein by reference as
14 though fully set forth the allegations contained in Paragraphs 1 through 27,
15 inclusive.

16 29. Plaintiff is informed and believes and thereon alleges that Defendants
17 knowingly induced, participated in, aided and abetted in and profited from the
18 illegal reproduction and/or subsequent sales of Infringing Garments featuring the
19 Designs as alleged hereinabove.

20 30. Plaintiff is informed and believes and thereon alleges that Defendants,
21 and each of them, are vicariously liable for the infringements alleged herein
22 because they had the right and ability to supervise the infringing conduct and
23 because they had a direct financial interest in the infringing conduct.

24 31. By reason of the Defendants', and each of their, acts of contributory
25 infringement as alleged above, Plaintiff has suffered and will continue to suffer
26 substantial damages to his business in an amount to be established at trial, as well
27 as additional general and special damages in an amount to be established at trial.
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32. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Designs. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Designs, in an amount to be established at trial.

33. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have imported, manufactured, cause to be manufactured and/or sold Infringing Garments.

34. Upon information and belief, Defendants also began such activities although they were fully aware of Plaintiff's superior rights to the Designs. Therefore, Defendants' acts of copyright infringement as alleged above were, and continue to be, willful, intentional and malicious, subjecting Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement. Further, Defendants', and each of their, willful and intentional misappropriation and/or infringement of Plaintiff's copyrighted Designs renders Defendants, and each of them, liable for statutory damages as described herein. Within the time permitted by law, Plaintiff will make its election between actual damages and statutory damages. Plaintiff is also entitled to preliminary and permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully demands the following relief against Defendants, jointly and severally, with respect to each claim for relief:

a. That Defendants, their agents and servants be enjoined from selling Infringing Garments, or otherwise infringing Plaintiff's copyright in the Designs;

b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final

1 judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101
2 et seq.;

3 c. That Plaintiff be awarded his attorneys' fees as available under the
4 Copyright Act 17 U.S.C. § 101 et seq.;

5 d. Directing such other relief as the Court may deem appropriate to
6 prevent the Defendants from participating in this or other copyright infringements;
7 and

8 e. Such other relief as the Court may deem appropriate.

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10 Dated: March 2, 2016

NOVIAN & NOVIAN, LLP

11 By: /s/ Farhad Novian
12 FARHAD NOVIAN
13 JOSEPH A. LOPEZ
14 SHANNA JAVAHERI

15 Attorneys for Plaintiff
16 L.A. T-SHIRT & PRINT, INC.
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Date: March 2, 2016

/s/ Farhad Novian

FARHAD NOVIAN